

AMENDED IN ASSEMBLY AUGUST 31, 2015

AMENDED IN ASSEMBLY JUNE 23, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 612

Introduced by Senator Jackson

February 27, 2015

An act to amend Sections 25270.2, 25270.3, 25270.4.1, 25270.4.5, 25270.5, 25270.6, 25270.9, 25281, 25404, 25505, 25507, 25507.2, 25508.1, 25531.2, and 118330 of, and to add Section 25158.1 to, the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

SB 612, as amended, Jackson. Hazardous materials.

(1) Existing law requires the Department of Toxic Substances Control to establish programs for and regulate hazardous waste source reduction. Existing law requires the department to prepare, adopt, and revise, when appropriate, a listing of the wastes that are determined to be hazardous, and a listing of the wastes that are determined to be extremely hazardous. Existing law requires the department to develop, and adopt by regulation, criteria and guidelines for the identification of hazardous wastes and extremely hazardous wastes and requires that any waste that conforms to the criteria be managed in accordance with permits, orders, and regulations issued by the department. Existing law requires the department to adopt, and revise when appropriate, standards and regulations for the management of hazardous wastes to protect against hazards to the public health, to domestic livestock, to wildlife, or to the environment. Pursuant to this authority, the department has adopted regulations establishing standards for generators of hazardous wastes

and establishing standards for owners and operators of hazardous waste transfer, treatment, storage, and disposal facilities.

This bill would require that a generator of hazardous waste include all hazardous waste that it has generated in any month, except for universal wastes, as defined, when computing whether it is required to comply with specified regulatory requirements. The bill would require the department to adopt regulations by December 1, 2016, incorporating instructions to hazardous waste generators implementing this requirement.

(2) Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program. Existing law requires every county to apply to the secretary to be certified to implement the unified program and allows a city or local agency to implement the unified program as a unified program agency, or UPA. Existing law requires the Office of Emergency Services to adopt, after public hearing and consultation with the Office of the State Fire Marshal and other appropriate public entities, regulations for minimum standards for business plans and area plans, and requires all business plans and area plans to meet the standards adopted by the Office of Emergency Services.

Existing law requires a business handling hazardous materials, as specified, to establish and implement a business plan for emergency response to a release or threatened release of a hazardous material in accordance with the standards prescribed in the regulations adopted by the Office of Emergency Services. The business plan is required to contain specified information, including a site map that contains north orientation, loading areas, internal roads, adjacent streets, storm and sewer drains, access and exit points, emergency shutoffs, evacuation staging areas, hazardous material handling and storage areas, and emergency response equipment.

This bill would additionally require the site map to include additional map requirements required by the UPA pursuant to an ordinance.

Existing law makes the knowing violation of the business plan requirements a crime.

This bill, by expanding the requirements for a business plan, would impose a state-mandated local program by expanding the application of a crime.

This bill would make additional legislative findings and declarations relative to the unified program.

(3) The Aboveground Petroleum Storage Act defines, for purposes of the act, an “aboveground storage tank” as a tank that has the capacity to store 55 gallons or more of petroleum and that is substantially or totally above the surface of the ground and a tank in an underground area, as defined, except for certain types of tanks and vessels, as specified.

This bill would exclude from the definition of “aboveground storage tank” a tank or tank facility located on and operated by a farm that is exempt from specified federal spill prevention, control, and countermeasure requirements. The bill would revise the definition of a “tank in an underground area.” This bill would provide that a tank in an underground area that is subject to aboveground tank regulation, as specified, is not subject to regulation pursuant to laws specific to underground storage tanks.

Existing law requires the unified program agencies (UPAs) to implement the Aboveground Petroleum Storage Act in accordance with regulations adopted by the Office of the State Fire Marshal and authorizes the Office of the State Fire Marshal to adopt these regulations.

This bill would require the Office of the State Fire Marshal to adopt these regulations.

Except for certain tank facilities located on farms, nurseries, logging sites, or construction sites, the Aboveground Petroleum Storage Act requires each owner or operator of a storage tank at a tank facility to prepare a spill prevention control and countermeasure plan and to conduct periodic inspections of the storage tank.

This bill would revise the above-described exception to the plan and inspection requirements to additionally require that the tank facility be operated by the farm, nursery, logging site, or construction site. The bill would require that the plan apply good engineering-judgment *practices* to prevent petroleum releases, as specified.

(4) Existing law generally regulates the storage of hazardous substances in underground storage tanks and requires underground storage tanks that are used to store hazardous substances and that are installed after January 1, 1984, to meet certain requirements and obtain a permit from the UPA.

This bill would revise the definition of “storage” and “store” for purposes of the regulation of the storage of hazardous substances in underground storage tanks, to exempt storage that is in compliance with specified alternative laws for the regulation of hazardous materials.

This bill would make other changes to the hazardous materials laws.

(5) The existing Medical Waste Management Act regulates the disposal of medical waste. Existing law authorizes a local agency to adopt a medical waste management program to, among other things, issue medical waste registrations and permits and inspect medical waste generators and treatment facilities, and requires the local agency, if it elects to do so, to notify the department. Under existing law, if the local agency chooses not to adopt a medical waste management program or if the department withdraws its designation, the department is the enforcement agency. Under existing law, whenever the enforcement agency determines that a violation or threatened violation of the act has resulted, or is likely to result, in a release of medical waste into the environment, the agency is authorized to issue an order to the responsible person specifying a schedule for compliance or imposing an administrative penalty of not more than \$1,000 per violation.

This bill would authorize the imposition of an administrative penalty of up to \$5,000. The bill would also establish a process for the enforcement agency to set the amount of the administrative penalty and would establish a process for a person who is assessed the administrative penalty to challenge the facts of the order and the amount of the penalty, including a hearing and appeal. The bill would require that a provision of an order, except the imposition of an administrative penalty, take effect upon issuance by the enforcement agency if the enforcement agency finds that the violation or violations of law associated with that provision may pose an imminent and substantial danger to the public health or safety or the environment.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25158.1 is added to the Health and Safety
- 2 Code, to read:
- 3 25158.1. (a) When making the quantity determinations for
- 4 purposes of Section 66262.34 of Title 22 of Division 4.5 of the
- 5 California Code of Regulations, as it may be amended consistent

1 with this code, a generator shall include all hazardous waste that
2 it has generated in any month, except for universal wastes managed
3 pursuant to the requirements of Chapter 23 (commencing with
4 Section 66273.1) of Division 4.5 of Title 22 of the California Code
5 of Regulations.

6 (b) By December 1, 2016, the department shall adopt regulations
7 incorporating the instructions to hazardous waste generators in
8 subdivision (a) into its implementing regulations.

9 SEC. 2. Section 25270.2 of the Health and Safety Code is
10 amended to read:

11 25270.2. For purposes of this chapter, the following definitions
12 apply:

13 (a) "Aboveground storage tank" or "storage tank" means a tank
14 that has the capacity to store 55 gallons or more of petroleum that
15 is substantially or totally above the surface of the ground, except
16 that, for purposes of this chapter, "aboveground storage tank" or
17 "storage tank" includes a tank in an underground area.
18 "Aboveground storage tank" does not include any of the following:

19 (1) A pressure vessel or boiler that is subject to Part 6
20 (commencing with Section 7620) of Division 5 of the Labor Code.

21 (2) A tank containing hazardous waste or extremely hazardous
22 waste, as respectively defined in Sections 25117 and 25115, if the
23 Department of Toxic Substances Control has issued the person
24 owning or operating the tank a hazardous waste facilities permit
25 for the storage tank.

26 (3) An aboveground oil production tank that is subject to Section
27 3106 of the Public Resources Code.

28 (4) Oil-filled electrical equipment, including, but not limited
29 to, transformers, circuit breakers, or capacitors, if the oil-filled
30 electrical equipment meets either of the following conditions:

31 (A) The equipment contains less than 10,000 gallons of dielectric
32 fluid.

33 (B) The equipment contains 10,000 gallons or more of dielectric
34 fluid with PCB levels less than 50 parts per million, appropriate
35 containment or diversionary structures or equipment are employed
36 to prevent discharged oil from reaching a navigable water course,
37 and the electrical equipment is visually inspected in accordance
38 with the usual routine maintenance procedures of the owner or
39 operator.

1 (5) A tank regulated as an underground storage tank under
2 Chapter 6.7 (commencing with Section 25280) of this division and
3 Chapter 16 (commencing with Section 2610) of Division 3 of Title
4 23 of the California Code of Regulations and that does not meet
5 the definition of a tank in an underground area.

6 (6) A transportation-related tank facility, subject to the authority
7 and control of the United States Department of Transportation, as
8 defined in the Memorandum of Understanding between the
9 Secretary of Transportation and the Administrator of the United
10 States Environmental Protection Agency, as set forth in Appendix
11 A to Part 112 (commencing with Section 112.1) of Subchapter D
12 of Chapter I of Title 40 of the Code of Federal Regulations.

13 (7) A tank or tank facility located on and operated by a farm
14 that is exempt from the federal spill prevention, control, and
15 countermeasure rule requirements pursuant to Part 112
16 (commencing with Section 112.1) of Subchapter D of Chapter I
17 of Title 40 of the Code of Federal Regulations.

18 (b) “Board” means the State Water Resources Control Board.

19 (c) (1) “Certified Unified Program Agency” or “CUPA” means
20 the agency certified by the Secretary for Environmental Protection
21 to implement the unified program specified in Chapter 6.11
22 (commencing with Section 25404) within a jurisdiction.

23 (2) “Participating Agency” or “PA” means an agency that has
24 a written agreement with the CUPA pursuant to subdivision (d)
25 of Section 25404.3, and is approved by the secretary, to implement
26 and enforce the unified program element specified in paragraph
27 (2) of subdivision (c) of Section 25404, in accordance with Sections
28 25404.1 and 25404.2.

29 (3) (A) “Unified Program Agency” or “UPA” means the CUPA,
30 or its participating agencies to the extent that each PA has been
31 designated by the CUPA, pursuant to a written agreement, to
32 implement and enforce the unified program element specified in
33 paragraph (2) of subdivision (c) of Section 25404. The UPAs have
34 the responsibility and authority, to the extent provided by this
35 chapter and Sections 25404.1 to 25404.2, inclusive, to implement
36 and enforce the requirements of this chapter.

37 (B) After a CUPA has been certified by the secretary, the unified
38 program agency shall be the only agency authorized to enforce the
39 requirements of this chapter.

1 (C) This paragraph does not limit the authority or responsibility
2 granted to the office, the board, and the regional boards by this
3 chapter.

4 (d) “Office” means the Office of the State Fire Marshal.

5 (e) “Operator” means the person responsible for the overall
6 operation of a tank facility.

7 (f) “Owner” means the person who owns the tank facility or
8 part of the tank facility.

9 (g) “Person” means an individual, trust, firm, joint stock
10 company, corporation, including a government corporation,
11 partnership, limited liability company, or association. “Person”
12 also includes any city, county, district, the University of California,
13 the California State University, the state, any department or agency
14 thereof, and the United States, to the extent authorized by federal
15 law.

16 (h) “Petroleum” means crude oil, or a fraction thereof, that is
17 liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per
18 square inch absolute pressure.

19 (i) “Regional board” means a California regional water quality
20 control board.

21 (j) “Release” means any spilling, leaking, pumping, pouring,
22 emitting, emptying, discharging, escaping, leaching, or disposing
23 into the environment.

24 (k) “Secretary” means the Secretary for Environmental
25 Protection.

26 (l) “Storage” or “store” means the containment, handling, or
27 treatment of petroleum, for a period of time, including on a
28 temporary basis.

29 (m) “Storage capacity” means the aggregate capacity of all
30 aboveground storage tanks at a tank facility.

31 (n) “Tank facility” means one or more aboveground storage
32 tanks, including any piping that is integral to the tanks, that contain
33 petroleum and that are used by an owner or operator at a single
34 location or site. For purposes of this chapter, a pipe is integrally
35 related to an aboveground storage tank if the pipe is connected to
36 the tank and meets any of the following:

37 (1) The pipe is within the dike or containment area.

38 (2) The pipe is between the containment area and the first flange
39 or valve outside the containment area.

1 (3) The pipe is connected to the first flange or valve on the
2 exterior of the tank, if state or federal law does not require a
3 containment area.

4 (4) The pipe is connected to a tank in an underground area.

5 (o) (1) “Tank in an underground area” means a storage tank to
6 which all of the following apply:

7 (A) The storage tank is located in a structure that is at least 10
8 percent below the ground surface, including, but not limited to, a
9 basement, cellar, shaft, pit, or vault.

10 (B) The structure in which the storage tank is located, at a
11 minimum, provides for secondary containment of the contents of
12 the tank, piping, and ancillary equipment, until cleanup occurs. A
13 shop-fabricated double-walled storage tank with a mechanical or
14 electronic device used to detect leaks in the interstitial space meets
15 the requirement for secondary containment of the contents of the
16 tank.

17 (C) The storage tank meets one or more of the following
18 conditions:

19 (i) The storage tank contains petroleum to be used or previously
20 used as a lubricant or coolant in a motor engine or transmission,
21 oil-filled operational equipment, or oil-filled manufacturing
22 equipment, is situated on or above the surface of the floor, and the
23 structure in which the tank is located provides enough space for
24 direct viewing of the exterior of the tank except for the part of the
25 tank in contact with the surface of the floor.

26 (ii) The storage tank *only* contains petroleum that is ~~considered~~
27 *determined to be* a hazardous waste, complies with the hazardous
28 waste tank standards pursuant to Article 10 (commencing with
29 Section 66265.190) of Chapter 15 of Title 22 of the California
30 Code of Regulations as it may be amended, and the tank facility
31 has been issued a unified program facility permit pursuant to
32 Section 25404.2 for generation, treatment, accumulation, or storage
33 of hazardous waste.

34 (iii) The storage tank contains petroleum and is used solely in
35 connection with a fire pump or an emergency system, legally
36 required standby system, or optional standby system as defined in
37 the *most recent version of the* California Electrical Code (Section
38 700.2 of Article 700, Section 701.2 of Article ~~701~~ of, 701, and
39 Section 702.2 of Article ~~702~~ 702, of Chapter 7 of Part 3 of Title
40 24 of the California Code of Regulations), is situated on or above

1 the surface of the floor, and the structure in which the tank is
2 located provides enough space for direct viewing of the exterior
3 of the tank except for the part of the tank in contact with the surface
4 of the floor.

5 (iv) The storage tank does not meet the conditions in
6 ~~subparagraph (A), (B), or (C),~~ *clauses (i), (ii), or (iii),* but meets
7 all of the following conditions:

8 (I) It contains petroleum.

9 (II) It is situated on or above the surface of the floor.

10 (III) The structure in which the tank is located provides enough
11 space for direct viewing of the exterior of the tank, except for the
12 part of the tank in contact with the surface of the floor, and all
13 piping connected to the tank, including any portion of a vent line,
14 vapor recovery line, or fill pipe that is beneath the surface of the
15 ground, and all ancillary equipment, can either be visually
16 inspected by direct viewing or has both secondary containment
17 and leak detection that ~~meets~~ *meet* the requirements of the
18 regulations adopted by the office pursuant to Section 25270.4.1.

19 ~~(D) All of the following conditions apply:~~

20 ~~(i) The storage tank located at a facility with a storage capacity~~
21 ~~of less than 1,320 gallons of petroleum.~~

22 ~~(ii) The tank facility owner or operator is monitoring the tank~~
23 ~~in compliance with recognized industry standards.~~

24 ~~(iii) The tank facility owner or operator is implementing a spill~~
25 ~~prevention, control, and countermeasure plan to prevent and control~~
26 ~~releases to the environment.~~

27 ~~(iv) The tank facility owner or operator is complying with the~~
28 ~~provisions of this chapter and the regulations adopted by the office.~~

29 (2) For a shop-fabricated double-walled storage tank, direct
30 viewing of the exterior of the tank is not required under paragraph
31 (1) if inspections of the interstitial space are performed or if it has
32 a mechanical or electronic device that will detect leaks in the
33 interstitial space.

34 (3) (A) A storage tank in an underground area is not subject to
35 Chapter 6.7 (commencing with Section 25280) if the storage tank
36 ~~is in compliance with the provisions of this chapter, the tank facility~~
37 ~~owner or operator is implementing a spill prevention, control, and~~
38 ~~countermeasure plan~~ *meets the definition of a tank in an*
39 *underground area, as provided in paragraph (1) and, except as*
40 *specified in subparagraph (B), the regulations that apply to all new*

1 and existing tanks in underground areas and buried piping
2 connected to tanks in underground ~~areas~~, *areas* have been adopted
3 by the office pursuant to Section 25270.4.1.

4 (B) A storage tank meeting the description of clause (i) of
5 subparagraph (C) of paragraph (1) shall continue to be subject to
6 this chapter, and excluded from the definition of an underground
7 storage tank in Chapter 6.7 (commencing with Section 25280),
8 ~~prior to~~ *before* and after the date the regulations specific to tanks
9 in underground areas have been adopted by the office.

10 (p) “Viewing” means visual inspection, and “direct viewing”
11 means, in regard to a storage tank, direct visual inspection of the
12 exterior of the tank, except for the part of the tank in contact with
13 the surface of the floor, and, where applicable, the entire length
14 of all piping and ancillary ~~equipment~~ *equipment, including all*
15 *exterior surfaces*, by a person or through the use of visual aids,
16 including, but not limited to, mirrors, cameras, or video equipment.

17 SEC. 3. Section 25270.3 of the Health and Safety Code is
18 amended to read:

19 25270.3. A tank facility is subject to this chapter if any of the
20 following apply:

21 (a) The tank facility is subject to the oil pollution prevention
22 regulations specified in Part 112 (commencing with Section 112.1)
23 of Subchapter D of Chapter I of Title 40 of the Code of Federal
24 Regulations.

25 (b) The tank facility has a storage capacity of 1,320 gallons or
26 more of petroleum.

27 (c) The tank facility has a storage capacity of less than 1,320
28 gallons of petroleum and has one or more tanks in an underground
29 area meeting the conditions specified in ~~subparagraph (D)~~ of
30 paragraph (1) of subdivision (o) of Section 25270.2. If this
31 subdivision is applicable, only tanks meeting the conditions
32 specified in ~~subparagraph (D)~~ of paragraph (1) of subdivision (o)
33 of Section 25270.2 shall be included as storage tanks and subject
34 to this chapter.

35 SEC. 4. Section 25270.4.1 of the Health and Safety Code is
36 amended to read:

37 25270.4.1. (a) The office shall adopt regulations implementing
38 this chapter. The office shall also provide interpretation of this
39 chapter to the UPAs, and oversee the implementation of this
40 chapter by the UPAs.

1 (b) The office shall establish an advisory committee that includes
2 representatives from regulated entities, appropriate trade
3 associations, fire service organizations, federal, state, and local
4 organizations, including UPAs, and other interested parties. The
5 advisory committee shall act in an advisory capacity to the office
6 in conducting its responsibilities.

7 (c) The office shall, in addition to any other requirements
8 imposed pursuant to this chapter, train UPAs, ensure consistency
9 with state law, to the maximum extent feasible, ensure consistency
10 with federal enforcement guidance issued by federal agencies
11 pursuant to subdivision (d), and support the UPAs in providing
12 outreach to regulated persons regarding compliance with current
13 local, state, and federal regulations relevant to the office's
14 obligations under this chapter.

15 (d) Any regulation adopted by the office pursuant to this section
16 shall ensure consistency with the requirements for spill prevention,
17 control, and countermeasure plans under Part 112 (commencing
18 with Section 112.1) of Subchapter D of Chapter I of Title 40 of
19 the Code of Federal Regulations, and shall include any more
20 stringent requirements necessary to implement this chapter.

21 SEC. 5. Section 25270.4.5 of the Health and Safety Code is
22 amended to read:

23 25270.4.5. (a) Except as provided in subdivision (b), each
24 owner or operator of a storage tank at a tank facility subject to this
25 chapter shall prepare a spill prevention control and countermeasure
26 plan applying good engineering-judgment *practices* to prevent
27 petroleum releases using the same format required by Part 112
28 (commencing with Section 112.1) of Subchapter D of Chapter I
29 of Title 40 of the Code of Federal Regulations, including owners
30 and operators of tank facilities not subject to the general provisions
31 in Section 112.1 of those regulations. Each owner or operator
32 specified in this subdivision shall conduct periodic inspections of
33 the storage tank to ensure compliance with Part 112 (commencing
34 with Section 112.1) of Subchapter D of Chapter I of Title 40 of
35 the Code of Federal Regulations. In implementing the spill
36 prevention control and countermeasure plan, each owner or
37 operator specified in this subdivision shall fully comply with the
38 latest version of the regulations contained in Part 112 (commencing
39 with Section 112.1) of Subchapter D of Chapter I of Title 40 of
40 the Code of Federal Regulations.

(b) A tank facility located on and operated by a farm, nursery, logging site, or construction site is not subject to subdivision (a) if no storage tank at the location exceeds 20,000 gallons and the cumulative storage capacity of the tank facility does not exceed 100,000 gallons. Unless excluded from the definition of an “aboveground storage tank” in Section 25270.2, the owner or operator of a tank facility exempt pursuant to this subdivision shall take the following actions:

(1) Conduct a daily visual inspection of any storage tank storing petroleum. For purposes of this section, “daily” means every day that contents are added to or withdrawn from the tank, but no less than five days per week. The number of days may be reduced by the number of state or federal holidays that occur during the week if there is no addition to, or withdrawal from, the tank on the holiday. The unified program agency may reduce the frequency of inspections to not less than once every three days at a tank facility that is exempt pursuant to this section if the tank facility is not staffed on a regular basis, provided that the inspection is performed every day the facility is staffed.

(2) Allow the UPA to conduct a periodic inspection of the tank facility.

(3) If the UPA determines installation of secondary containment is necessary for the protection of the waters of the state, install a secondary means of containment for each tank or group of tanks where the secondary containment will, at a minimum, contain the entire contents of the largest tank protected by the secondary containment plus precipitation.

SEC. 6. Section 25270.5 of the Health and Safety Code is amended to read:

25270.5. (a) Except as provided in subdivision (b), at least once every three years, the UPA shall inspect each storage tank or a representative sampling of the storage tanks at each tank facility that has a storage capacity of 10,000 gallons or more of petroleum. The purpose of the inspection shall be to determine whether the owner or operator is in compliance with the spill prevention control and countermeasure plan requirements of this chapter.

(b) The UPA may develop an alternative inspection and compliance plan, subject to approval by the secretary and the office.

(c) An inspection conducted pursuant to this section does not require the oversight of a professional engineer. The person conducting the inspection shall complete and pass the initial aboveground storage tank inspector training program. The curriculum of the aboveground storage tank inspector training program shall focus on the spill prevention control and countermeasure plan provisions and safety requirements for aboveground storage tank inspections.

SEC. 7. Section 25270.6 of the Health and Safety Code is amended to read:

25270.6. (a) (1) On or before January 1, 2009, and on or before January 1 annually thereafter, each owner or operator of a tank facility subject to this chapter shall file with the statewide information management system, a tank facility statement that shall identify the name and address of the tank facility, a contact person for the tank facility, the total storage capacity of the tank facility, and the location and contents of each petroleum storage tank that exceeds 10,000 gallons in storage capacity. A copy of a statement submitted previously pursuant to this section may be submitted in lieu of a new tank facility statement if no new or used storage tanks have been added to the facility or if no significant modifications have been made. For purposes of this section, a significant modification includes, but is not limited to, altering existing storage tanks or changing spill prevention or containment methods.

(2) Notwithstanding paragraph (1), an owner or operator of a tank facility that submits a business plan, as defined in subdivision (d) of Section 25501, to the statewide information management system and that complies with Sections 25503, 25505, 25505.1, 25507, 25507.2, 25508, 25508.1, and ~~25508.2~~ *satisfies* the requirement in paragraph (1) to file a tank facility statement.

(b) Each year, commencing in calendar year 2010, each owner or operator of a tank facility who is subject to the requirements of subdivision (a) shall pay a fee to the UPA, on or before a date specified by the UPA. The governing body of the UPA shall establish a fee, as part of the single fee system implemented pursuant to Section 25404.5, at a level sufficient to pay the necessary and reasonable costs incurred by the UPA in administering this chapter, including, but not limited to,

1 inspections, enforcement, and administrative costs. The UPA shall
2 also implement the fee accountability program established pursuant
3 to subdivision (c) of Section 25404.5 and the regulations adopted
4 to implement that program.

5 *SEC. 8. Section 25270.9 of the Health and Safety Code is*
6 *amended to read:*

7 25270.9. (a) The board and the regional board may oversee
8 cleanup or abatement efforts, or cause cleanup or abatement efforts,
9 of a release from a storage tank at a tank facility.

10 (b) The reasonable expenses of the board and the regional board
11 incurred in overseeing, or contracting for, cleanup or abatement
12 efforts that result from a release at a tank facility is a charge against
13 the owner or operator of the tank facility. Expenses reimbursable
14 to a public agency under this section are a debt of the tank facility
15 owner or operator, and shall be collected in the same manner as
16 in the case of an obligation under a contract, express or implied.

17 (c) Expenses recovered by the board or a regional board pursuant
18 to this section shall be deposited into the Waste Discharge Permit
19 Fund. These moneys shall be separately accounted for, and shall
20 be expended by the board, upon appropriation by the Legislature,
21 to assist regional boards and other public agencies with authority
22 to clean up waste or abate the effects of the waste, in cleaning up
23 or abating the effects of the waste on waters of the state, or for the
24 purposes authorized in Section ~~13443~~. *13443 of the Water Code.*

25 ~~SEC. 8.~~

26 *SEC. 9. Section 25281 of the Health and Safety Code is*
27 *amended to read:*

28 25281. For purposes of this chapter and unless otherwise
29 expressly provided, the following definitions apply:

30 (a) “Automatic line leak detector” means any method of leak
31 detection, as determined in regulations adopted by the board, that
32 alerts the owner or operator of an underground storage tank to the
33 presence of a leak. “Automatic line leak detector” includes, but is
34 not limited to, any device or mechanism that alerts the owner or
35 operator of an underground storage tank to the presence of a leak
36 by restricting or shutting off the flow of a hazardous substance
37 through piping, or by triggering an audible or visual alarm, and
38 that detects leaks of three gallons or more per hour at 10 pounds
39 per square inch line pressure within one hour.

1 (b) “Board” means the State Water Resources Control Board.
2 “Regional board” means a California regional water quality control
3 board.

4 (c) “Compatible” means the ability of two or more substances
5 to maintain their respective physical and chemical properties upon
6 contact with one another for the design life of the tank system
7 under conditions likely to be encountered in the tank system.

8 (d) (1) “Certified Unified Program Agency” or “CUPA” means
9 the agency certified by the Secretary for Environmental Protection
10 to implement the unified program specified in Chapter 6.11
11 (commencing with Section 25404) within a jurisdiction.

12 (2) “Participating Agency” or “PA” means an agency that has
13 a written agreement with the CUPA pursuant to subdivision (d)
14 of Section 25404.3, and is approved by the secretary to implement
15 or enforce the unified program element specified in paragraph (3)
16 of subdivision (c) of Section 25404, in accordance with Sections
17 25404.1 and 25404.2.

18 (3) “Unified Program Agency” or “UPA” means the CUPA, or
19 its participating agencies to the extent each PA has been designated
20 by the CUPA, pursuant to a written agreement, to implement or
21 enforce the unified program element specified in paragraph (3) of
22 subdivision (c) of Section 25404. For purposes of this chapter, a
23 UPA has the responsibility and authority, to the extent provided
24 by this chapter and Sections 25404.1 to 25404.2, inclusive, to
25 implement and enforce only those requirements of this chapter
26 listed in paragraph (3) of subdivision (c) of Section 25404 and the
27 regulations adopted to implement those requirements. Except as
28 provided in Section 25296.09, after a CUPA has been certified by
29 the secretary, the UPA shall be the only local agency authorized
30 to enforce the requirements of this chapter listed in paragraph (3)
31 of subdivision (c) of Section 25404 within the jurisdiction of the
32 CUPA. This paragraph shall not be construed to limit the authority
33 or responsibility granted to the board and the regional boards by
34 this chapter to implement and enforce this chapter and the
35 regulations adopted pursuant to this chapter.

36 (e) “Department” means the Department of Toxic Substances
37 Control.

38 (f) “Facility” means any one, or combination of, underground
39 storage tanks used by a single business entity at a single location
40 or site.

(g) “Federal act” means Subchapter IX (commencing with Section 6991) of Chapter 82 of Title 42 of the United States Code, as added by the Hazardous and Solid Waste Amendments of 1984 (Public Law 98-616), or as it may subsequently be amended or supplemented.

(h) “Hazardous substance” means either of the following:

(1) All of the following liquid and solid substances, unless the department, in consultation with the board, determines that the substance could not adversely affect the quality of the waters of the state:

(A) Substances on the list prepared by the Director of Industrial Relations pursuant to Section 6382 of the Labor Code.

(B) Hazardous substances, as defined in Section 25316.

(C) Any substance or material that is classified by the National Fire Protection Association (NFPA) as a flammable liquid, a class II combustible liquid, or a class III-A combustible liquid.

(2) Any regulated substance, as defined in subsection (7) of Section 6991 of Title 42 of the United States Code, as that section reads on January 1, 2012, or as it may subsequently be amended or supplemented.

(i) “Local agency” means one of the following, as specified in subdivision (b) of Section 25283:

(1) The unified program agency.

(2) Before July 1, 2013, a city or county.

(3) On and after July 1, 2013, a city or county certified by the board to implement the local oversight program pursuant to Section 25297.01.

(j) “Operator” means any person in control of, or having daily responsibility for, the daily operation of an underground storage tank system.

(k) “Owner” means the owner of an underground storage tank.

(l) “Person” means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, limited liability company, or association. “Person” also includes any city, county, district, the state, another state of the United States, any department or agency of this state or another state, or the United States to the extent authorized by federal law.

(m) “Pipe” means any pipeline or system of pipelines that is used in connection with the storage of hazardous substances and that is not intended to transport hazardous substances in interstate

1 or intrastate commerce or to transfer hazardous materials in bulk
2 to or from a marine vessel.

3 (n) “Primary containment” means the first level of containment,
4 such as the portion of a tank that comes into immediate contact on
5 its inner surface with the hazardous substance being contained.

6 (o) “Product tight” means impervious to the substance that is
7 contained, or is to be contained, so as to prevent the seepage of
8 the substance from the containment.

9 (p) “Release” means any spilling, leaking, emitting, discharging,
10 escaping, leaching, or disposing from an underground storage tank
11 into or on the waters of the state, the land, or the subsurface soils.

12 (q) “Secondary containment” means the level of containment
13 external to, and separate from, the primary containment.

14 (r) “Single walled” means construction with walls made of only
15 one thickness of material. For the purposes of this chapter,
16 laminated, coated, or clad materials are considered single walled.

17 (s) “Special inspector” means a professional engineer, registered
18 pursuant to Chapter 7 (commencing with Section 6700) of Division
19 3 of the Business and Professions Code, who is qualified to attest,
20 at a minimum, to structural soundness, seismic safety, the
21 compatibility of construction materials with contents, cathodic
22 protection, and the mechanical compatibility of the structural
23 elements of underground storage tanks.

24 (t) (1) “Storage” or “store” means the containment, handling,
25 or treatment of hazardous substances, either on a temporary basis
26 or for a period of years.

27 (2) “Storage” or “store” does not include the storage of
28 hazardous wastes in an underground storage tank if the person
29 operating the tank has been issued a hazardous waste facilities
30 permit by the department pursuant to Section 25200 or 25201.6
31 or granted interim status under Section 25200.5.

32 (3) “Storage” or “store” does not include the storage of
33 hazardous wastes in an underground storage tank if all of the
34 following apply:

35 (A) The facility has been issued a unified program facility permit
36 pursuant to Section 25404.2 for generation, treatment,
37 accumulation, or storage of hazardous waste in a tank.

38 (B) The tank is located in an underground area, as defined in
39 Section 280.12 of Title 40 of the Code of Federal Regulations.

1 (C) The tank is subject to Chapter 6.67 (commencing with
2 Section 25270).

3 (D) The tank complies with the hazardous waste tank standards
4 pursuant to Article 10 (commencing with Section 66265.190) of
5 Chapter 15 of Title 22 of the California Code of Regulations.

6 (4) “Storage” or “store” does not include the storage of
7 hazardous wastes in an underground storage tank if all of the
8 following apply:

9 (A) The facility has been issued a unified program facility permit
10 pursuant to Section 25404.2 for generation, treatment,
11 accumulation, or storage of hazardous waste in a tank.

12 (B) The tank is located in a structure that is at least 10 percent
13 below the ground surface, including, but not limited to, a basement,
14 cellar, shaft, pit, or vault.

15 (C) The structure in which the tank is located, at a minimum,
16 provides for secondary containment of the contents of the tank,
17 piping, and ancillary equipment, until cleanup occurs.

18 (D) The tank complies with the hazardous waste tank standards
19 pursuant to Article 10 (commencing with Section 66265.190) of
20 Chapter 15 of Title 22 of the California Code of Regulations.

21 (u) “Tank” means a stationary device designed to contain an
22 accumulation of hazardous substances which is constructed
23 primarily of nonearthen materials, including, but not limited to,
24 wood, concrete, steel, or plastic that provides structural support.

25 (v) “Tank integrity test” means a test method capable of
26 detecting an unauthorized release from an underground storage
27 tank consistent with the minimum standards adopted by the board.

28 (w) “Tank tester” means an individual who performs tank
29 integrity tests on underground storage tanks.

30 (x) “Unauthorized release” means any release of any hazardous
31 substance that does not conform to this chapter, including an
32 unauthorized release specified in Section 25295.5.

33 (y) (1) “Underground storage tank” means any one or
34 combination of tanks, including pipes connected thereto, that is
35 used for the storage of hazardous substances and that is
36 substantially or totally beneath the surface of the ground.
37 “Underground storage tank” does not include any of the following:

38 (A) A tank with a capacity of 1,100 gallons or less that is located
39 on a farm and that stores motor vehicle fuel used primarily for
40 agricultural purposes and not for resale.

1 (B) A tank that is located on a farm or at the residence of a
2 person, that has a capacity of 1,100 gallons or less, and that stores
3 home heating oil for consumptive use on the premises where stored.

4 (C) Structures, such as sumps, separators, storm drains, catch
5 basins, oil field gathering lines, refinery pipelines, lagoons,
6 evaporation ponds, well cellars, separation sumps, and lined and
7 unlined pits, sumps, and lagoons. A sump that is a part of a
8 monitoring system required under Section 25290.1, 25290.2,
9 25291, or 25292 and sumps or other structures defined as
10 underground storage tanks under the federal act are not exempted
11 by this subparagraph.

12 (D) A tank holding hydraulic fluid for a closed loop mechanical
13 system that uses compressed air or hydraulic fluid to operate lifts,
14 elevators, and other similar devices.

15 (E) A tank in an underground area, as defined in Section
16 25270.2, and associated piping, that is subject to Chapter 6.67
17 (commencing with Section 25270).

18 (2) Structures identified in subparagraphs (C) and (D) of
19 paragraph (1) may be regulated by the board and any regional
20 board pursuant to the Porter-Cologne Water Quality Control Act
21 (Division 7 (commencing with Section 13000) of the Water Code)
22 to ensure that they do not pose a threat to water quality.

23 (z) “Underground tank system” or “tank system” means an
24 underground storage tank, connected piping, ancillary equipment,
25 and containment system, if any.

26 (aa) (1) “Unified program facility” means all contiguous land
27 and structures, other appurtenances, and improvements on the land
28 that are subject to the requirements of paragraph (3) of subdivision
29 (c) of Section 25404.

30 (2) “Unified program facility permit” means a permit issued
31 pursuant to Chapter 6.11 (commencing with Section 25404), and
32 that encompasses the permitting requirements of Section 25284.

33 (3) “Permit” means a permit issued pursuant to Section 25284
34 or a unified program facility permit as defined in paragraph (2).

35 ~~SEC. 9.~~

36 *SEC. 10.* Section 25404 of the Health and Safety Code is
37 amended to read:

38 25404. (a) For purposes of this chapter, the following terms
39 shall have the following meanings:

1 (1) (A) “Certified Unified Program Agency” or “CUPA” means
2 the agency certified by the secretary to implement the unified
3 program specified in this chapter within a jurisdiction.

4 (B) “Participating Agency” or “PA” means a state or local
5 agency that has a written agreement with the CUPA pursuant to
6 subdivision (d) of Section 25404.3, and is approved by the
7 secretary, to implement or enforce one or more of the unified
8 program elements specified in subdivision (c), in accordance with
9 Sections 25404.1 and 25404.2.

10 (C) “Unified Program Agency” or “UPA” means the CUPA, or
11 its participating agencies to the extent each PA has been designated
12 by the CUPA, pursuant to a written agreement, to implement or
13 enforce a particular unified program element specified in
14 subdivision (c). The UPAs have the responsibility and authority
15 to implement and enforce the requirements listed in subdivision
16 (c), and the regulations adopted to implement the requirements
17 listed in subdivision (c), to the extent provided by Chapter 6.5
18 (commencing with Section 25100), Chapter 6.67 (commencing
19 with Section 25270), Chapter 6.7 (commencing with Section
20 25280), Chapter 6.95 (commencing with Section 25500), and
21 Sections 25404.1 to 25404.2, inclusive. After a CUPA has been
22 certified by the secretary, the unified program agencies and the
23 state agencies carrying out responsibilities under this chapter shall
24 be the only agencies authorized to enforce the requirements listed
25 in subdivision (c) within the jurisdiction of the CUPA.

26 (2) “Department” means the Department of Toxic Substances
27 Control.

28 (3) “Minor violation” means the failure of a person to comply
29 with a requirement or condition of an applicable law, regulation,
30 permit, information request, order, variance, or other requirement,
31 whether procedural or substantive, of the unified program that the
32 UPA is authorized to implement or enforce pursuant to this chapter,
33 and that does not otherwise include any of the following:

34 (A) A violation that results in injury to persons or property, or
35 that presents a significant threat to human health or the
36 environment.

37 (B) A knowing, willful, or intentional violation.

38 (C) A violation that is a chronic violation, or that is committed
39 by a recalcitrant violator. In determining whether a violation is
40 chronic or a violator is recalcitrant, the UPA shall consider whether

1 there is evidence indicating that the violator has engaged in a
2 pattern of neglect or disregard with respect to applicable regulatory
3 requirements.

4 (D) A violation that results in an emergency response from a
5 public safety agency.

6 (E) A violation that enables the violator to benefit economically
7 from the noncompliance, either by reduced costs or competitive
8 advantage.

9 (F) A class I violation as provided in Section 25117.6.

10 (G) A class II violation committed by a chronic or a recalcitrant
11 violator, as provided in Section 25117.6.

12 (H) A violation that hinders the ability of the UPA to determine
13 compliance with any other applicable local, state, or federal rule,
14 regulation, information request, order, variance, permit, or other
15 requirement.

16 (4) “Secretary” means the Secretary for Environmental
17 Protection.

18 (5) “Unified program facility” means all contiguous land and
19 structures, other appurtenances, and improvements on the land
20 that are subject to the requirements listed in subdivision (c).

21 (6) “Unified program facility permit” means a permit issued
22 pursuant to this chapter. For the purposes of this chapter, a unified
23 program facility permit encompasses the permitting requirements
24 of Section 25284, and permit or authorization requirements under
25 a local ordinance or regulation relating to the generation or
26 handling of hazardous waste or hazardous materials, but does not
27 encompass the permitting requirements of a local ordinance that
28 incorporates provisions of the California Fire Code or the
29 California Building Code.

30 (b) The secretary shall adopt implementing regulations and
31 implement a unified hazardous waste and hazardous materials
32 management regulatory program, which shall be known as the
33 unified program, after holding an appropriate number of public
34 hearings throughout the state. The unified program shall be
35 developed in close consultation with the director, the Secretary of
36 California Emergency Management, the State Fire Marshal, the
37 executive officers and chairpersons of the State Water Resources
38 Control Board and the California regional water quality control
39 boards, the local health officers, local fire services, and other
40 appropriate officers of interested local agencies, and affected

1 businesses and interested members of the public, including
2 environmental organizations.

3 (c) The unified program shall consolidate the administration of
4 the following requirements and, to the maximum extent feasible
5 within statutory constraints, shall ensure the coordination and
6 consistency of any regulations adopted pursuant to those
7 requirements:

8 (1) (A) Except as provided in subparagraphs (B) and (C), the
9 requirements of Chapter 6.5 (commencing with Section 25100),
10 and the regulations adopted by the department pursuant thereto,
11 that are applicable to all of the following:

12 (i) Hazardous waste generators, persons operating pursuant to
13 a permit-by-rule, conditional authorization, or conditional
14 exemption, pursuant to Chapter 6.5 (commencing with Section
15 25100) or the regulations adopted by the department.

16 (ii) Persons managing perchlorate materials.

17 (iii) Persons subject to Article 10.1 (commencing with Section
18 25211) of Chapter 6.5.

19 (iv) Persons operating a collection location that has been
20 established under an architectural paint stewardship plan approved
21 by the Department of Resources Recycling and Recovery pursuant
22 to the architectural paint recovery program established pursuant
23 to Chapter 5 (commencing with Section 48700) of Part 7 of
24 Division 30 of the Public Resources Code.

25 (v) On and before December 31, 2019, a transfer facility, as
26 defined in paragraph (3) of subdivision (a) of Section 25123.3,
27 that is operated by a door-to-door household hazardous waste
28 collection program or household hazardous waste residential pickup
29 service, as defined in subdivision (c) of Section 25218.1. On and
30 after January 1, 2020, the unified program shall not include a
31 transfer facility operated by a door-to-door household hazardous
32 waste collection program.

33 (vi) Persons who receive used oil from consumers pursuant to
34 Section 25250.11.

35 (B) The unified program shall not include the requirements of
36 paragraph (3) of subdivision (c) of Section 25200.3, the
37 requirements of Sections 25200.10 and 25200.14, and the authority
38 to issue an order under Sections 25187 and 25187.1, with regard
39 to those portions of a unified program facility that are subject to
40 one of the following:

1 (i) A corrective action order issued by the department pursuant
2 to Section 25187.

3 (ii) An order issued by the department pursuant to Chapter 6.8
4 (commencing with Section 25300) or former Chapter 6.85
5 (commencing with Section 25396).

6 (iii) A remedial action plan approved pursuant to Chapter 6.8
7 (commencing with Section 25300) or former Chapter 6.85
8 (commencing with Section 25396).

9 (iv) A cleanup and abatement order issued by a California
10 regional water quality control board pursuant to Section 13304 of
11 the Water Code, to the extent that the cleanup and abatement order
12 addresses the requirements of the applicable section or sections
13 listed in this subparagraph.

14 (v) Corrective action required under subsection (u) of Section
15 6924 of Title 42 of the United States Code or subsection (h) of
16 Section 6928 of Title 42 of the United States Code.

17 (vi) An environmental assessment pursuant to Section 25200.14
18 or a corrective action pursuant to Section 25200.10 or paragraph
19 (3) of subdivision (c) of Section 25200.3, that is being overseen
20 by the department.

21 (C) The unified program shall not include the requirements of
22 Chapter 6.5 (commencing with Section 25100), and the regulations
23 adopted by the department pursuant thereto, applicable to persons
24 operating transportable treatment units, except that any required
25 notice regarding transportable treatment units shall also be provided
26 to the CUPAs.

27 (2) The requirements of Chapter 6.67 (commencing with Section
28 25270) concerning aboveground storage tanks.

29 (3) (A) Except as provided in subparagraphs (B) and (C), the
30 requirements of Chapter 6.7 (commencing with Section 25280)
31 concerning underground storage tanks and the requirements of any
32 underground storage tank ordinance adopted by a city or county.

33 (B) The unified program shall not include the responsibilities
34 assigned to the State Water Resources Control Board pursuant to
35 Section 25297.1.

36 (C) The unified program shall not include the corrective action
37 requirements of Sections 25296.10 to 25296.40, inclusive.

38 (4) The requirements of Article 1 (commencing with Section
39 25500) of Chapter 6.95 concerning hazardous material release
40 response plans and inventories.

1 (5) The requirements of Article 2 (commencing with Section
2 25531) of Chapter 6.95, concerning the accidental release
3 prevention program.

4 (6) The requirements for the hazardous materials plan and
5 hazardous materials inventory statement of the California Fire
6 Code, as adopted by the State Fire Marshal pursuant to Section
7 13143.9.

8 (d) To the maximum extent feasible within statutory constraints,
9 the secretary shall consolidate, coordinate, and make consistent
10 these requirements of the unified program with other requirements
11 imposed by other federal, state, regional, or local agencies upon
12 facilities regulated by the unified program.

13 (e) (1) The secretary shall establish standards applicable to
14 CUPAs, participating agencies, state agencies, and businesses
15 specifying the data to be collected and submitted by unified
16 program agencies in administering the programs listed in
17 subdivision (c).

18 (2) (A) The secretary shall establish a statewide information
19 management system capable of receiving all data collected by the
20 unified program agencies and reported by regulated businesses
21 pursuant to this subdivision, in a manner that is most cost efficient
22 and effective for both the regulated businesses and state and local
23 agencies. The secretary shall prescribe an XML or other compatible
24 Web-based format for the transfer of data from CUPAs and
25 regulated businesses and make all nonconfidential data available
26 on the Internet.

27 (B) The secretary shall establish milestones to measure the
28 implementation of the statewide information management system
29 and shall provide periodic status updates to interested parties.

30 (3) (A) (i) Except as provided in subparagraph (B), in addition
31 to any other funding that becomes available, the secretary shall
32 increase the oversight surcharge provided for in subdivision (b)
33 of Section 25404.5 by an amount necessary to meet the
34 requirements of this subdivision for a period of three years, to
35 establish the statewide information management system, consistent
36 with paragraph (2). The increase in the oversight surcharge shall
37 not exceed twenty-five dollars (\$25) in any one year of the
38 three-year period. The secretary shall thereafter maintain the
39 statewide information management system, funded by the

1 assessment the secretary is authorized to impose pursuant to
2 Section 25404.5.

3 (ii) No less than 75 percent of the additional funding raised
4 pursuant to clause (i) shall be provided to CUPAs and PAs through
5 grant funds or statewide contract services, in the amounts
6 determined by the secretary to assist these local agencies in meeting
7 these information management system requirements.

8 (B) A facility that is owned or operated by the federal
9 government and that is subject to the unified program shall pay
10 the surcharge required by this paragraph to the extent authorized
11 by federal law.

12 (C) The secretary, or one or more of the boards, departments,
13 or offices within the California Environmental Protection Agency,
14 shall seek available federal funding for purposes of implementing
15 this subdivision.

16 (4) No later than three years after the statewide information
17 management system is established, each CUPA, PA, and regulated
18 business shall report program data electronically. The secretary
19 shall work with the CUPAs to develop a phased in schedule for
20 the electronic collection and submittal of information to be included
21 in the statewide information management system, giving first
22 priority to information relating to those chemicals determined by
23 the secretary to be of greatest concern. The secretary, in making
24 this determination shall consult with the CUPAs, the California
25 Emergency Management Agency, the State Fire Marshal, and the
26 boards, departments, and offices within the California
27 Environmental Protection Agency.

28 (5) The secretary, in collaboration with the CUPAs, shall provide
29 technical assistance to regulated businesses to comply with the
30 electronic reporting requirements and may expend funds identified
31 in clause (i) of subparagraph (A) of paragraph (3) for that purpose.

32 ~~SEC. 10.~~

33 *SEC. 11.* Section 25505 of the Health and Safety Code is
34 amended to read:

35 25505. (a) A business plan shall contain all of the following
36 information:

37 (1) The inventory of information required by this article and
38 additional information the governing body of the unified program
39 agency finds necessary to protect the health and safety of persons,
40 property, or the environment. Locally required information shall

1 be adopted by local ordinance and shall be subject to trade secret
2 protection specified in Section 25512. The unified program agency
3 shall notify the secretary within 30 days after those requirements
4 are adopted.

5 (2) A site map that contains north orientation, loading areas,
6 internal roads, adjacent streets, storm and sewer drains, access and
7 exit points, emergency shutoffs, evacuation staging areas,
8 hazardous material handling and storage areas, emergency response
9 equipment, and additional map requirements the governing body
10 of the unified program agency finds necessary. Any locally required
11 additional map requirements shall be adopted by local ordinance.
12 This ordinance and related public processes are subject to the
13 limitations on the disclosure of hazardous material location
14 information specified in subdivision (b) of Section 25509. The
15 unified program agency shall notify the secretary both before
16 publishing a proposed ordinance to require additional map
17 requirements and within 30 days after those requirements are
18 adopted. A site map shall be updated to include the additional
19 information required pursuant to the local ordinance no later than
20 one year after adoption of the local ordinance.

21 (3) Emergency response plans and procedures in the event of a
22 release or threatened release of a hazardous material, including,
23 but not limited to, all of the following:

24 (A) Immediate notification contacts to the appropriate local
25 emergency response personnel and to the unified program agency.

26 (B) Procedures for the mitigation of a release or threatened
27 release to minimize any potential harm or damage to persons,
28 property, or the environment.

29 (C) Evacuation plans and procedures, including immediate
30 notice, for the business site.

31 (4) Training for all new employees and annual training,
32 including refresher courses, for all employees in safety procedures
33 in the event of a release or threatened release of a hazardous
34 material, including, but not limited to, familiarity with the plans
35 and procedures specified in paragraph (3). These training programs
36 may take into consideration the position of each employee. This
37 training shall be documented electronically or by hard copy and
38 shall be made available for a minimum of three years.

39 (b) A business required to file a pipeline operations contingency
40 plan in accordance with the Elder California Pipeline Safety Act

1 of 1981 (Chapter 5.5 (commencing with Section 51010) of Part 1
2 of Division 1 of Title 5 of the Government Code) and the
3 regulations of the Department of Transportation, found in Part 195
4 (commencing with Section 195.0) of Subchapter D of Chapter I
5 of Subtitle B of Title 49 of the Code of Federal Regulations, may
6 file a copy of those plans with the unified program agency instead
7 of filing an emergency response plan specified in paragraph (3)
8 of subdivision (a).

9 (c) The emergency response plans and procedures, the inventory
10 of information required by this article, and the site map required
11 by this section shall be readily available to personnel of the
12 business or the unified program facility with responsibilities for
13 emergency response or training pursuant to this section.

14 ~~SEC. 11.~~

15 *SEC. 12.* Section 25507 of the Health and Safety Code is
16 amended to read:

17 25507. (a) Except as provided in this article, a business shall
18 establish and implement a business plan for emergency response
19 to a release or threatened release of a hazardous material in
20 accordance with the standards prescribed in the regulations adopted
21 pursuant to Section 25503 if the business meets any of the
22 following conditions at any unified program facility:

23 (1) (A) It handles a hazardous material or a mixture containing
24 a hazardous material that has a quantity at any one time during the
25 reporting year that is equal to, or greater than, 55 gallons for
26 materials that are liquids, 500 pounds for solids, or 200 cubic feet
27 for compressed gas, as defined in subdivision (i) of Section 25501.
28 The physical state and quantity present of mixtures shall be
29 determined by the physical state of the mixture as a whole, not
30 individual components, at standard temperature and pressure.

31 (B) For the purpose of this section, for compressed gases, if a
32 hazardous material or mixture is determined to exceed threshold
33 quantities at standard temperature and pressure, it shall be reported
34 in the physical state at which it is stored. If the material is an
35 extremely hazardous substance, as defined in Section 355.61 of
36 Title 40 of the Code of Federal Regulations, all amounts shall be
37 reported in pounds.

38 (2) It is required to submit chemical inventory information
39 pursuant to Section 11022 of Title 42 of the United States Code.

(3) It handles at any one time during the reporting year an amount of a hazardous material that is equal to, or greater than the threshold planning quantity, under both of the following conditions:

(A) The hazardous material is an extremely hazardous substance, as defined in Section 355.61 of Title 40 of the Code of Federal Regulations.

(B) The threshold planning quantity for that extremely hazardous substance listed in Appendices A and B of Part 355 (commencing with Section 355.1) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations is less than 500 pounds.

(4) (A) It handles at any one time during the reporting year a total weight of 5,000 pounds for solids or a total volume of 550 gallons for liquids, if the hazardous material is a solid or liquid substance that is classified as a hazard for purposes of Section 5194 of Title 8 of the California Code of Regulations solely as an irritant or sensitizer, except as provided in subparagraph (B).

(B) If the hazardous material handled by the facility is a paint that will be recycled or otherwise managed under an architectural paint recovery program approved by the Department of Resources ~~Recycling and Recovery and Recycling~~ pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code, the business is required to establish and implement a business plan only if the business handles at any one time during the reporting year a total weight of 10,000 pounds of solid hazardous materials or a total volume of 1,000 gallons of liquid hazardous materials.

(5) It handles at any one time during the reporting year ~~eryogenic~~ *cryogenic*, refrigerated, or compressed gas in a quantity of 1,000 cubic feet or more at standard temperature and pressure, if the gas is any of the following:

(A) Classified as a hazard for the purposes of Section 5194 of Title 8 of the California Code of Regulations only for hazards due to simple asphyxiation or the release of pressure.

(B) Oxygen, nitrogen, and nitrous oxide ordinarily maintained by a physician, dentist, podiatrist, veterinarian, pharmacist, or emergency medical service provider at his or her place of business.

(C) Carbon dioxide.

(D) Nonflammable refrigerant gases, as defined in the California Fire Code, that are used in refrigeration systems.

(E) Gases used in closed fire suppression systems.

(6) It handles a radioactive material at any one time during the reporting year in quantities for which an emergency plan is required to be considered pursuant to Schedule C (Section 30.72) of Part 30 (commencing with Section 30.1), Part 40 (commencing with Section 40.1), or Part 70 (commencing with Section 70.1), of Chapter 1 of Title 10 of the Code of Federal Regulations, or pursuant to any regulations adopted by the state in accordance with those regulations.

(7) It handles perchlorate material, as defined in subdivision (c) of Section 25210.5, in a quantity at any one time during the reporting year that is equal to, or greater than, the thresholds listed in paragraph (1).

(b) The following hazardous materials are exempt from the requirements of this section:

(1) Refrigerant gases, other than ammonia or flammable gas in a closed cooling system, that are used for comfort or space cooling for computer rooms.

(2) Compressed air in cylinders, bottles, and tanks used by fire departments and other emergency response organizations for the purpose of emergency response and safety.

(3) (A) Lubricating oil, if the total volume of each type of lubricating oil handled at a facility does not exceed 55 gallons and the total volume of all types of lubricating oil handled at that facility does not exceed 275 gallons, at any one time.

(B) For purposes of this paragraph, “lubricating oil” means oil intended for use in an internal combustion crankcase, or the transmission, gearbox, differential, or hydraulic system of an automobile, bus, truck, vessel, airplane, heavy equipment, or other machinery powered by an internal combustion or electric powered engine. “Lubricating oil” does not include used oil, as defined in subdivision (a) of Section 25250.1.

(4) Both of the following, if the aggregate storage capacity of oil at the facility is less than 1,320 gallons and a spill prevention ~~countermeasure and control~~ *control and countermeasure* plan is not required pursuant to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

(A) Fluid in a hydraulic system.

(B) Oil-filled electrical equipment that is not contiguous to an electric facility.

1 (5) Hazardous material contained solely in a consumer product,
2 handled at, and found in, a retail establishment and intended for
3 sale to, and for the use by, the public. The exemption provided for
4 in this paragraph shall not apply to a consumer product handled
5 at the facility which manufactures that product, or a separate
6 warehouse or distribution center of that facility, or where a product
7 is dispensed on the retail premises.

8 (6) Propane that is for on-premises use, storage, or both, in an
9 amount not to exceed 500 gallons, that is for the sole purpose of
10 cooking, heating employee work areas, and heating water within
11 that facility, unless the unified program agency finds, and provides
12 notice to the business handling the propane, that the handling of
13 the on-premises propane requires the submission of a business
14 plan, or any portion of a business plan, in response to public health,
15 safety, or environmental concerns.

16 (c) In addition to the authority specified in subdivision (e), the
17 governing body of the unified program agency may, in exceptional
18 circumstances, following notice and public hearing, exempt a
19 hazardous material specified in subdivision (n) of Section 25501
20 from Section 25506, if it is found that the hazardous material would
21 not pose a present or potential danger to the environment or to
22 human health and safety if the hazardous material was released
23 into the environment. The unified program agency shall send a
24 notice to the office and the secretary within 15 days from the
25 effective date of any exemption granted pursuant to this
26 subdivision.

27 (d) The unified program agency, upon application by a handler,
28 may exempt the handler, under conditions that the unified program
29 agency determines to be proper, from any portion of the
30 requirements to establish and maintain a business plan, upon a
31 written finding that the exemption would not pose a significant
32 present or potential hazard to human health or safety or to the
33 environment, or affect the ability of the unified program agency
34 and emergency response personnel to effectively respond to the
35 release of a hazardous material, and that there are unusual
36 circumstances justifying the exemption. The unified program
37 agency shall specify in writing the basis for any exemption under
38 this subdivision.

39 (e) The unified program agency, upon application by a handler,
40 may exempt a hazardous material from the inventory provisions

1 of this article upon proof that the material does not pose a
2 significant present or potential hazard to human health and safety
3 or to the environment if released into the workplace or
4 environment. The unified program agency shall specify in writing
5 the basis for any exemption under this subdivision.

6 (f) The unified program agency shall adopt procedures to
7 provide for public input when approving applications submitted
8 pursuant to subdivisions (d) and (e).

9 ~~SEC. 12.~~

10 *SEC. 13.* Section 25507.2 of the Health and Safety Code is
11 amended to read:

12 25507.2. Except as specified in this section, unless required
13 by a local ordinance, the unified program agency shall exempt a
14 business from application of Sections 25506, 25507, 25508.2, and
15 25511 to an unstaffed facility located at least one-half mile from
16 the nearest occupied structure if the facility is not otherwise subject
17 to the requirements of applicable federal law, and all of the
18 following requirements are met:

19 (a) The types and quantities of materials onsite are limited to
20 one or more of the following:

21 (1) One thousand standard cubic feet of compressed inert gases
22 (asphyxiation and pressure hazards only).

23 (2) Five hundred gallons of combustible liquid used as a fuel
24 source.

25 (3) Corrosive liquids, not to exceed 500 pounds of extremely
26 hazardous substances, used as electrolytes, and in closed containers.

27 (4) Five hundred gallons of lubricating and hydraulic fluids.

28 (5) One thousand two hundred gallons of hydrocarbon gas used
29 as a fuel source.

30 (6) Any quantity of mineral oil contained within electrical
31 equipment, such as transformers, bushings, electrical switches,
32 and voltage regulators, if the spill prevention control and
33 countermeasure plan has been prepared for quantities that meet or
34 exceed 1,320 gallons.

35 (b) The facility is secured and not accessible to the public.

36 (c) Warning signs are posted and maintained for hazardous
37 materials pursuant to the California Fire Code.

38 (d) (1) Notwithstanding Sections 25505 and 25507, a one-time
39 business plan, except for the emergency response plan and training
40 elements specified in paragraphs (3) and (4) of subdivision (a) of

1 Section 25505, is submitted to the statewide information
2 management system. This one-time business plan submittal is
3 subject to a verification inspection by the unified program agency
4 and the unified program agency may assess a fee not to exceed the
5 actual costs of processing and for inspection, if an inspection is
6 conducted.

7 (2) If the information contained in the one-time submittal of the
8 business plan changes and the time period of the change is longer
9 than 30 days, the business plan shall be resubmitted within 30 days
10 to the statewide information management system to reflect any
11 change in the business plan. A fee not to exceed the actual costs
12 of processing and inspection, if conducted, may be assessed by
13 the unified program agency.

14 ~~SEC. 13.~~

15 *SEC. 14.* Section 25508.1 of the Health and Safety Code is
16 amended to read:

17 25508.1. Within 30 days of any one of the following events,
18 a business subject to this article shall electronically update the
19 information submitted to the statewide information management
20 system:

21 (a) A 100 percent or more increase in the quantity of a
22 previously disclosed material.

23 (b) Any handling of a previously undisclosed hazardous material
24 subject to the inventory requirements of this article.

25 (c) Change of business or facility address.

26 (d) Change of business ownership.

27 (e) Change of business name.

28 (f) (1) A substantial change in the handler's operations occurs
29 that requires modification to any portion of the business plan.

30 (2) For the purpose of this subdivision, "substantial change"
31 means any change in a facility that would inhibit immediate
32 response during an emergency by either site personnel or
33 emergency response personnel, or that could inhibit the handler's
34 ability to comply with Section 25507, change the operational
35 knowledge of the facility, or impede implementation of the business
36 plan.

37 ~~SEC. 14.~~

38 *SEC. 15.* Section 25531.2 of the Health and Safety Code is
39 amended to read:

25531.2. (a) The Legislature finds and declares that as the state implements the federal accidental release prevention program pursuant to this article, the Office of Emergency Services will play a vital and increased role in preventing accidental releases of extremely hazardous substances. The Legislature further finds and declares that as an element of the unified program established pursuant to Chapter 6.11 (commencing with Section 25404), a single fee system surcharge mechanism is established by Section 25404.5 to cover the costs incurred by the office pursuant to this article. It is the intent of the Legislature that this existing authority, together with any federal assistance that may become available to implement the accidental release program, be used to fully fund the activities of the office necessary to implement this article.

(b) The Legislature further finds and declares that the owners and operators of stationary sources producing, processing, handling, or storing hazardous materials have a general duty, in the same manner and to the same extent as is required by Section 654 of Title 29 of the United States Code, to identify hazards that may result from releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking those steps as are necessary to prevent releases, and to minimize the consequences of accidental releases that do occur.

(c) The office shall use any federal assistance received to implement Chapter 6.11 (commencing with Section 25404) to offset any fees or charges levied to cover the costs incurred by the office pursuant to this article.

~~SEC. 15.~~

SEC. 16. Section 118330 of the Health and Safety Code is amended to read:

118330. (a) Whenever the enforcement agency determines that a violation or threatened violation of this part or the regulations adopted pursuant to this part has resulted, or is likely to result, in a release of medical waste into the environment, the agency may issue an order to the responsible person specifying a schedule for compliance or imposing an administrative penalty of not more than five thousand dollars (\$5,000) per violation. A person who, after notice and an opportunity for hearing, violates an order issued pursuant to this section is guilty of a misdemeanor.

(b) (1) In establishing the amount of the administrative penalty and ordering that the violation be corrected pursuant to this section,

1 the enforcement agency shall take into consideration the nature,
2 circumstances, extent, and gravity of the violation, the violator's
3 past and present efforts to prevent, abate, or clean up conditions
4 posing a threat to the public health or safety or the environment,
5 the violator's ability to pay the penalty, and the deterrent effect
6 that the imposition of the penalty would have on both the violator
7 and the regulated community.

8 (2) If the amount of the administrative penalty is set after the
9 person is served with the order pursuant to subdivision (c) or after
10 the order becomes final, the person may request a hearing to dispute
11 the amount of the administrative penalty and is entitled to the same
12 process as provided in subdivision (c), whether or not the person
13 disputed the facts of the violation through that process.

14 (3) An administrative penalty assessed pursuant to this section
15 shall be in addition to any other penalties or sanctions imposed by
16 law.

17 (c) (1) An order issued pursuant to this section shall be served
18 by personal service or certified mail and shall inform the person
19 served of the right to a hearing.

20 (2) A person served with an order pursuant to paragraph (1) and
21 who has been unable to resolve the violation with the enforcement
22 agency may, within 15 days after service of the order, request a
23 hearing by filing with the enforcement agency a notice of defense.
24 The notice shall be filed with the agency that issued the order. A
25 notice of defense shall be deemed filed within the 15-day period
26 if it is postmarked within that 15-day period. If no notice of defense
27 is filed within the 15-day time period, the order shall become final.

28 (3) Except as otherwise provided in paragraph (4), a person
29 requesting a hearing on an order issued pursuant to this section
30 may select the hearing officer specified in either subparagraph (A)
31 or (B) of paragraph (4) in the notice of defense filed with the
32 enforcement agency pursuant to paragraph (2). If a notice of
33 defense is filed, but no hearing officer is selected, the enforcement
34 agency may select the hearing officer.

35 (4) Within 90 days of receipt of the notice of defense by the
36 enforcement agency, the hearing shall be scheduled using one of
37 the following:

38 (A) An administrative law judge of the Office of Administrative
39 Hearings of the Department of General Services, who shall conduct
40 the hearing in accordance with Chapter 4.5 (commencing with

1 Section 11400) of Part 1 of Division 3 of Title 2 of the Government
2 Code, and the enforcement agency shall have all the authority
3 granted to an agency by those provisions.

4 (B) (i) A hearing officer designated by the enforcement agency,
5 who shall conduct the hearing in accordance with Chapter 4.5
6 (commencing with Section 11400) of Part 1 of Division 3 of Title
7 2 of the Government Code, and the enforcement agency shall have
8 all the authority granted to an agency by those provisions. When
9 a hearing is conducted by an enforcement agency hearing officer
10 pursuant to this clause, the enforcement agency shall issue a
11 decision within 60 days after the hearing is conducted. Each
12 hearing officer designated by an enforcement agency shall meet
13 the requirements of Section 11425.30 of the Government Code
14 and any other applicable restriction.

15 (ii) An enforcement agency, or a person requesting a hearing
16 on an order issued by an enforcement agency, may select the
17 hearing process specified in this subparagraph in a notice of defense
18 filed pursuant to paragraph (2) only if the enforcement agency has
19 selected a designated hearing officer and established a program
20 for conducting a hearing in accordance with this paragraph.

21 (5) The hearing decision issued pursuant to this subdivision
22 shall be effective and final upon issuance by the enforcement
23 agency. A copy of the decision shall be served by personal service
24 or by certified mail upon the party served with the order, or their
25 representative, if any.

26 (6) The person has a right to appeal the hearing decision if,
27 within 30 days of the date of receipt of the final decision pursuant
28 to paragraph (5), the person files a written notice of appeal with
29 the enforcement agency. The appeal shall be in accordance with
30 the Administrative Procedure Act (Chapter 3.5 (commencing with
31 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
32 Code).

33 (7) A decision issued pursuant to paragraph (6) may be reviewed
34 by a court pursuant to Section 11523 of the Government Code. In
35 all proceedings pursuant to this section, the court shall uphold the
36 decision of the enforcement agency if the decision is based upon
37 substantial evidence in the record as a whole. The filing of a
38 petition for writ of mandate shall not stay an action required
39 pursuant to this chapter or the accrual of any penalties assessed

1 pursuant to this chapter. This subdivision does not prohibit the
2 court from granting any appropriate relief within its jurisdiction.

3 (d) A provision of an order issued under this section, except the
4 imposition of an administrative penalty, shall take effect upon
5 issuance of the order by the enforcement agency if the enforcement
6 agency finds that the violation or violations of law associated with
7 that provision may pose an imminent and substantial danger to the
8 public health or safety or the environment. A request for a hearing
9 or appeal, as provided in subdivision (c), shall not stay the effect
10 of that provision of the order pending a hearing decision. If the
11 enforcement agency determines that any or all provisions of the
12 order are so related that the public health or safety or the
13 environment can be protected only by immediate compliance with
14 the order as a whole, the order as a whole, except the imposition
15 of an administrative penalty, shall take effect upon issuance by
16 the enforcement agency. A request for a hearing shall not stay the
17 effect of the order as a whole pending a hearing decision.

18 (e) The enforcement agency shall consult with the district
19 attorney, county counsel, or city attorney on the development of
20 policies to be followed in exercising the authority delegated
21 pursuant to this section as it relates to the authority of the
22 enforcement agency to issue orders.

23 ~~SEC. 16.~~

24 *SEC. 17.* No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.